

Federal Communications Commission

§51.613

§32.11 of this chapter, except as provided in paragraph (d) of this section, avoided retail costs shall:

(1) Include, as direct costs, the costs recorded in USOA accounts 6611 (product management), 6612 (sales), 6613 (product advertising), 6621 (call completion services), 6622 (number services), and 6623 (customer services) (§§ 32.6611, 32.6612, 32.6613, 32.6621, 32.6622, and 32.6623 of this chapter);

(2) Include, as indirect costs, a portion of the costs recorded in USOA accounts 6121-6124 (general support expenses), 6711, 6712, 6721-6728 (corporate operations expenses), and 5301 (telecommunications uncollectibles) (§§ 32.6121-32.6124, 32.6711, 32.6712, 32.6721-32.6728, and 32.5301 of this chapter); and

(3) Not include plant-specific expenses and plant non-specific expenses, other than general support expenses (§§ 32.6110-32.6116, 32.6210-32.6565 of this chapter).

(d) Costs included in accounts 6611-6613 and 6621-6623 described in paragraph (c) of this section (§§ 32.6611-32.6613 and 32.6621-32.6623 of this chapter) may be included in wholesale rates only to the extent that the incumbent LEC proves to a state commission that specific costs in these accounts will be incurred and are not avoidable with respect to services sold at wholesale, or that specific costs in these accounts are not included in the retail prices of resold services. Costs included in accounts 6110-6116 and 6210-6565 described in paragraph (c) of this section (§§ 32.6110-32.6116, 32.6210-32.6565 of this chapter) may be treated as avoided retail costs, and excluded from wholesale rates, only to the extent that a party proves to a state commission that specific costs in these accounts can reasonably be avoided when an incumbent LEC provides a telecommunications service for resale to a requesting carrier.

(e) For incumbent LECs that are designated as Class B companies under §32.11 of this chapter and that record information in summary accounts instead of specific USOA accounts, the entire relevant summary accounts may be used in lieu of the specific USOA accounts listed in paragraphs (c) and (d) of this section.

§51.611 Interim wholesale rates.

(a) If a state commission cannot, based on the information available to it, establish a wholesale rate using the methodology prescribed in §51.609, then the state commission may elect to establish an interim wholesale rate as described in paragraph (b) of this section.

(b) The state commission may establish interim wholesale rates that are at least 17 percent, and no more than 25 percent, below the incumbent LEC's existing retail rates, and shall articulate the basis for selecting a particular discount rate. The same discount percentage rate shall be used to establish interim wholesale rates for each telecommunications service.

(c) A state commission that establishes interim wholesale rates shall, within a reasonable period of time thereafter, establish wholesale rates on the basis of an avoided retail cost study that complies with §51.609.

§51.613 Restrictions on resale.

(a) Notwithstanding §51.605(b), the following types of restrictions on resale may be imposed:

(1) *Cross-class selling.* A state commission may permit an incumbent LEC to prohibit a requesting telecommunications carrier that purchases at wholesale rates for resale, telecommunications services that the incumbent LEC makes available only to residential customers or to a limited class of residential customers, from offering such services to classes of customers that are not eligible to subscribe to such services from the incumbent LEC.

(2) *Short term promotions.* An incumbent LEC shall apply the wholesale discount to the ordinary rate for a retail service rather than a special promotional rate only if:

(i) Such promotions involve rates that will be in effect for no more than 90 days; and

(ii) The incumbent LEC does not use such promotional offerings to evade the wholesale rate obligation, for example by making available a sequential series of 90-day promotional rates.

(b) With respect to any restrictions on resale not permitted under paragraph (a), an incumbent LEC may impose a restriction only if it proves to